

MEMO ENDORSED

GERALD L. SHARGEL

GERALD L. SHARGEL

ROSS M. KRAMER

EVAN L. LIPTON

LAW OFFICES

570 LEXINGTON AVE., 45TH FLOOR

NEW YORK, NEW YORK 10022

TEL: 212.446.2323

FAX: 212.446.2330

info@shergellaw.com

5/9/11

April 21, 2011

Via Federal Express

Hon. Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

22-111
JUDGE KAPLAN'S CHAMBERS

Re: United States v. Marino, 09 Cr. 1243 (LAK)

Dear Judge Kaplan:

I write on behalf of Daniel Marino to respectfully request the Court's intervention in what is literally a life or death situation. Earlier this week, Marino was designated to FCI Gilmer in Glenville, West Virginia. FCI Gilmer is a medium security facility – not a Federal Medical Center. We respectfully submit that Marino absolutely requires the level of treatment that only a Federal Medical Center can provide, and that without the Court's intervention Marino's life and health are in dire and immediate jeopardy.

We therefore request that the Court restate and reinforce its recommendation to the Bureau of Prisons regarding Marino's designation, in the hope that BOP may reconsider its dangerous and ill-considered decision.

In connection with Daniel Marino's motion for pretrial release, we submitted a letter from Stanley J. Schneller, M.D., a Board Certified cardiologist and Associate Clinical Professor of Medicine and Surgery at Columbia University Medical Center. (See Exhibit A.) Dr. Schneller concluded that Marino "is at significant risk of stroke," and that he should be on a course of "anticoagulant therapy with warfarin (Coumadin)." (Id. at 4.)

We have now received a second opinion from Charles A. Slivinski, M.D., Marino's treating physician since 2006 and a faculty member of New York University School of Medicine. (See Exhibit B.) Dr. Slivinski's medical opinion is, likewise, that the only reasonable treatment for Marino's "life-threatening condition is anti-coagulation using Coumadin." (Id. at 1.)

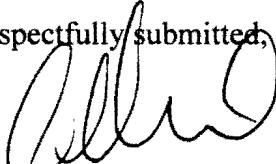
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Despite repeated warnings from defense counsel, however, physicians at MCC and MDC have refused to treat Marino with Coumadin. One possible reason is that a patient beginning a Coumadin regimen must be monitored extremely closely and carefully in order to prevent life-threatening consequences, and neither MCC nor MDC had the ability (or the willingness) to do so. (See Exhibit A at 4-5.)

If Daniel Marino is transferred to FCI Gilmer, there is no reason to believe that he will receive a higher standard of medical care than he did at MCC or MDC. He needs to be on Coumadin. Therefore, he needs to be at a facility that can dedicate the attention and care that a Coumadin regimen requires.

Based on the opinions of Drs. Schneller and Slivinski, we respectfully submit that the Court's intervention at this point is necessary to avoid catastrophic consequences. We are sincerely concerned that without the Court's assistance, Daniel Marino's life may be needlessly cut short. A renewed recommendation from the Court may aid in avoiding that tragic result.

Respectfully submitted,

Gerald L. Shargel

cc: Assistant United States Attorney Elie Honig

The Court has nothing
to add to its previous
recommendation.

SO ORDERED


LEWIS A. KAPLAN, USDJ
5/9/11

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U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

May 5, 2011

By Hand Delivery

The Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street, Room 1310
New York, New York 10007

Re: United States v. Daniel Marino, et al.
S2 09 Cr. 1243 (LAK)

Dear Judge Kaplan:

The Government respectfully submits this letter regarding the letters submitted to the Court and the Bureau of Prisons ("BOP") by defendant Daniel Marino (Reg. No. 99111-012) on April 21, 2011. The Court has instructed the Government to file a letter response setting forth its position.

With respect to the health issues Marino raises, the Government takes no position. The BOP has the most complete and updated medical file on Marino, and has dealt directly with Marino's health situation for the past year without incident. The Government therefore defers to the BOP on any issues relating to Marino's designation, health, and medical treatment.

Respectfully submitted,

PREET BHARARA
United States Attorney

By:

/s/
Elie Horng / Natalie Lamarcque / Daniel P. Chung
Assistant U.S. Attorneys
(212) 637-2474 / 2206 / 2417

cc (by e-mail): Gerald Shargel, Esq.